Last Will and Testament

I, the undersigned ____

Of ____, hereby declare that this is my Last Will and Testament.

1.) I revoke, cancel and annul all previous Wills, Codicils and other testamentary writings or statements made or executed by me at any time before.

2.) I hereby nominate, constitute and appoint as the Executors of this, My Will and Administrators of my Estate, the Following persons:

1. ____
   ____
2. ____
   ____
3. ____
   ____

In the event of any one or more of my said Executors or Administrators predeceasing me, or dying during his term of Office , or declining to act, then the remaining or surviving Executors shall be authorised to act alone.

Furthermore, in the event of all such Executors or Administrators predeceasing me or dying during his term of office or declining to act, then 1 declare that anyone of the judicial bodies mentioned in Clause 10 shall be authorized to appoint one or more Executors or Administrators.

3.) I hereby grant to the Executors of my Estate all such powers as allowed by Law, especially the power of assumption.

4.) I hereby direct that it shall not be necessary for my said Executors and Administrators, or any one of them, to lodge security with the Master of the Supreme Court for the due performance of their duties.

5.) My said Executor/s and/or Administrator/s shall not be required to pay the minor's inheritance into the Guardian's Fund, nor shall they be required to furnish any security to the Master of the Supreme Court for the due administration of the inheritances due to such minors.

Testator: ____

Witnesses:

1.) ____________________________________

2.) ____________________________________

6.) I hereby direct that the Executors and Administrators of my Estate proceed with the distribution of my Estate in the following order of priority as commanded by the lslamic Law of Succession.
   a. Payment of my funeral expenses.
   b. Payment of all my debts.
   c. Payment of the Wasiyyah (lslamic Bequest) which is set out in Clause 8 and
   d. Distribution of the residue of my Estate to my lslamic heirs in accordance with the Islaamic Law of Succession.

7.) My said Executors and Administrators shall endeavour to ascertain what amount, if any, is due by me in respect of my religious liabilities and obligations in accordance with the tenets of the Islaamic faith until the date of my death, and for the guidance of my Executors and Administrators I hereby declare that at present my liabilities in this respect are as follows:

a) Unpaid Zakaat (Annual Rate) R____
b) Unaccomplished Haj R____
c) Unkept Saum (Fast) R____
or other Wajib R____
d) Unperformed Salaah (Prayers) R____
(h) R____
e) Unfulfilled Kaffaarah R____
f) Undischarged Mannat, etc. R____
g) Undischarged Qurbani R____

The total amount payable under this clause shall not, however, exceed thirty three and one third per cent of the net value of my estate after the payment of all debts contracted by me during my life time, including funeral expenses.

8.) In the event of any balance remaining out of the thirty three and one third per cent of the net value of my Estate as calculated in Clause 6 and 7 hereof, I hereby make Wasiyyat (bequest) according to the laws of lslam and give and bequeath as free and absolute legacies, to the following charitable institutions or persons ,(who are non heirs) , out of such balance, the amounts as are set opposite their respective names, as follows:

a) ____
____
b) ____
____
c) ____
____

Testator: ____

Witnesses:
1.) ______________________________________
2.) ______________________________________

9.) I direct that in the event of any Wasiyyah (lslamic Bequest) referred to in clause 8 above , exceeding one third of my estate, after payments of debts, then such Wasiyyah (lslamic Bequest) shall abate proportionately.

10.) I hereby direct that a Certificate issued by the Jamiatul Ulama (Natal) or any Muslim Judicial Body, AS DEFINED IN THE ATTACHED EXPLANATORY NOTES, shall be binding and conclusive as to the aforesaid lslamic Law and the distribution of my Estate.

11.) I direct that any share under this, my Will, hereto devolving upon a female is to be paid to and to become her sole, absolute and exclusive property, and be excluded from the community of property and any accrual system that may now or hereafter exist between her and any husband she has married or may marry and shall be free from the marital power and right of administration ordinarily accruing to him, whether by virtue of the law of community of property, accrual or otherwise. The receipt alone of any female inheritor in my Estate, without the assistance of her husband, shall be a good and sufficient discharge to my Executor and/or Administrators thereof.

12.) I hereby direct that any inheritance accruing to a minor child in terms hereof shall not be paid into the Guardians Fund , but shall be held in Trust by my said Administrators until the said minor attains the age of majority in which event my said Administrators shall pay over to the said minor his/her share of inheritance. My said Administrators shall be empowered to invest assets held in Trust in such investments which are in accordance with lslamic Law. My Administrators are authorized in their discretion to apply the income , and in case of need , a portion of the Capital of the Trust assets for the maintenance, education and general welfare of the beneficiary of the Trust , provided that any such application of income is in accordance with the lslamic Law.

13.) In the event of there being any dispute relating to the interpretation of this Will, or the Administration, Liquidation or distribution of my Estate or any other matter connected therewith , or arising there from, the matter shall be referred to a Muslim Judicial Body, AS DEFINED IN THE ATTACHED EXPLANATORY NOTES , whose decision shall be final and conclusive.

14.) My said Executor/s and Administrator/s shall not be obliged to furnish any security to the Master of the Supreme Court for the due and proper administration of my estate as laid down by the provisions of Act 66 of 1965 or any law governing the administration of estates.

Testator: ____

Witnesses:

1.) ______________________________________

2.) ______________________________________

15.) It shall be the duty of my Executor/s to determine who my rightful heirs are, in accordance with the Islaamic Law (Sunni Mohammedaan Law), and what share each is entitled to receive. I do hereby nominate and appoint such persons in the shares determined, to be the heirs of the whole of the residue of my Estate, wherever situated, in the Republic of South Africa, India or elsewhere.

16.) A Certificate stating the rightful heirs in my Estate, showing their respective shares therein in accordance with the Islaamic law of succession as defined by the aforementioned Muslim Judicial Body, shall be accepted for all purposes as a lawful document, determining my rightful heirs.

17.) In determining my heirs, my Executor/s and the said Muslim Judicial Body, shall take full cognisance of any marriages lawfully contracted by me anywhere in the world according to the tenets of the Islaamic faith.

18.) It is my express desire that my Executor/s shall wind up my Estate as expeditiously as possible. Any business carried on in my name at the time of my death, or any other assets belonging to my Estate, can, by arrangements between the heirs, be taken over by any or all of them. Any minor's inheritance shall be retained by my Administrator/s in trust for the benefit of such minor until that minor becomes of age, and may be utilised to acquire any business or assets of the Estate, or any share in such business or assets, or any investment deemed suitable by my Administrator/s. No minor heir shall be entitled to participate in any discussion on matters affecting my Estate, without the approval of my Administrator/s. If no agreement is reached between my heirs within a reasonable time, all Estate assets shall be realised all the proceeds distributed in the manner aforementioned. My Administrator/s shall have the right to carry on and continue any business carried on in my name in partnership or otherwise, at the time of my death, so long as they may consider it desirable for the benefit of my heirs in their absolute discretion.

THUS DONE EXECUTED AT____
DAY______________________ MONTH ______________________ YEAR ______________________
in the presence of the SUBSCRIBING WITNESSES, WHO SIGNED IN EACH OTHER'S PRESENCE, ALL BEING PRESENT AT THE SAME TIME,

Testator: ____

Witnesses:

1.) ____

2.) ____

EXPLANATARY INFORMATION - (THIS DOES NOT FORM PART OF THE WILL)

ONE: ABOUT THE WILL FORM.

1) The Testator and Both the Witnesses Must Sign At The Bottom of Each Page As Indicated.

2) A Certificate Issued by Any Competent Islaamic Judicial Body, Or Person, As Defined Hereunder, Shall Be Binding And Conclusive As to the Aforementioned Islaamic Law, And Any Other Matter Which Needs Clarification As to its Validity in Islaamic Law:-

A) The Jamiatul Ulema of Natal, Transvaal, Fordsburg and the Eastern Cape.

B) The Majlisul Ulema of South Africa.

C) Any Qualified Aalim Or Judicial Body Allocated by Any of the Above.

TWO: AGE OF RESPONSIBILITY AND DISCRETION.

In Islaam, An Individual is Regarded As Being Responsible From the Age of Puberty Which is About Fourteen to Fifiteen Years, Whereas the Laws of the State Regard This At Twenty One Years. It is Therefore Advisable for A Muslim to Make His/her Will At the Age of Puberty.

THREE: MARRYING IN COMMUNITY OF PROPERTY.

Muslims Are Warned Against this contract, As, in the Event of Death, this Contract Goes Against Islaamic Law and Deprives The Lawful Heirs of Their Inheritance. People Who Are Already Married in this Way Should Consult A Good Muslim Lawyer As to How to Rectify The Proportions Set Out in this Contract.

FOUR: DISTRIBUTION:

The Estate Should Be Distributed As Follows:-

A) Kafn and Burial Expenses.

B) All Debts (Including Unrecorded Ones for Which Declaation is Waajib - As Explained Later).

C) All Wasiyyat Amounts Should Be Paid From One Third of the Remaining Estate After Discharging A) and B) Above.

D) The Balance (Remaining Two Thirds) to Be Distributed Among the Heirs According to the Islaamic Law Of Inheritance. Unknown Heirs Must Be Included Here.

NB. It is Not Permissible to Distribute the Personal Assets of the Deceased, Or to Provide Food for the Visitors Or the Poor From the Estate Before the Above Distribution Has Taken Place.

FIVE: ABOUT THE WILL.

To Declare the Following Items in One's Will is Waajib (Obligatory):-

A) Unrecorded Debts.

B) Unrecorded Assets.

C) Unrecorded Heirs.

D) Unrecorded Amaanat (Items Left in One's Trust).

SIX: ABOUT WASIYYAT.

1) A Wasiyyat Can Only Be Made From One Third of the Deceased Persons Estate.

2) The Following Wasiyyat (bequests) Are Waajib (obligatory)

A) Unpaid Zakaat.

B) Unperformed Haj.

C) Fidyah And/or Kaffaarah for Missing Ramadhaan Fasts.

D) Fidyah for Missing Daily Fardh and Waajib Salaat.

E) Kaffaarah for Unfulfilled Promises (Yameen) Etc.

F) Other Unfulfilled Waajibs Such As Outstanding Qurbaani, Sadaqatul Fitr, Etc.

SEVEN: FIDYAH.

Fidyah For Each Missed Salaat Or Fast is the Value of Four Pounds of Wheat Or Flour. Therefore the Amount to Be Paid for One Days Missed Salaat is Four Times Six (Because Witr of Esha is Regarded As A Separate Salaat) which Amounts to Twenty Four Pounds of Wheat Or the Value Thereof. The Amount in Kilograms Would Be 1.814 Kgs Times Six Which is 10.886 Kgs Per Day. The Above Can Only Be Discharged From One Third of the Nett Amount of the Estate, After All The Above Have Been Attended to.

EIGHT: OTHER WASIYYATS.

A) It is Mustahab to Make Wasiyyat in Favour for Needy Relatives Who Are Not Heirs, Deserving Pious People, and Towards Worthy Islaamic Causes.

B) It is Makrooh (Undesirable) to Make A Wasiyyat for Those Who Are Faasiq Or Faajir (Irreligious) Or for Undesirable And Unworthy Causes.

C) It Is Mubaah (Allowed) to Make Wasiyyat for A Well-to-do Person.

D) Wasiyyat Cannot Be Made in Favour of An Heir.